

fiber drums must meet the DOT specifications in 49 CFR 173.12 and be overpacked according to the requirements in paragraph (b) of this section.

[46 FR 56596, Nov. 17, 1981, as amended at 55 FR 22686, June 1, 1990; 57 FR 54461, Nov. 18, 1992]

### Subpart O—Incinerators

SOURCE: 46 FR 7680, Jan. 23, 1981, unless otherwise noted.

#### § 265.340 Applicability.

(a) The regulations of this subpart apply to owners and operators of hazardous waste incinerators (as defined in § 260.10 of this chapter), except as § 265.1 provides otherwise.

(b) *Integration of the MACT standards.*

(1) Except as provided by paragraph (b)(2) of this section, the standards of this part no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of part 63, subpart EEE of this chapter by conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance under §§ 63.1207(j) and 63.1210(d) of this chapter documenting compliance with the requirements of subpart EEE of part 63 of this Chapter. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

(2) The MACT standards do not replace the closure requirements of § 264.351 or the applicable requirements of subparts A through H, BB and CC of this part.

(c) Owners and operators of incinerators burning hazardous waste are exempt from all of the requirements of this subpart, except § 265.351 (Closure), provided that the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in part 261, appendix VIII, of this chapter, and such doc-

umentation is retained at the facility, if the waste to be burned is:

(1) Listed as a hazardous waste in part 261, subpart D, of this chapter solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

(2) Listed as a hazardous waste in part 261, subpart D, of this chapter solely because it is reactive (Hazard Code R) for characteristics other than those listed in § 261.23(a) (4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone; or

(3) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under part 261, subpart C, of this chapter; or

(4) A hazardous waste solely because it possesses the reactivity characteristics described by § 261.23(a) (1), (2), (3), (6), (7), or (8) of this chapter, and will not be burned when other hazardous wastes are present in the combustion zone.

[47 FR 27533, June 24, 1982 and 50 FR 666, Jan. 4, 1985, as amended at 50 FR 49203, Nov. 29, 1985; 56 FR 7208, Feb. 21, 1991; 64 FR 53075, Sept. 30, 1999]

#### § 265.341 Waste analysis.

In addition to the waste analyses required by § 265.13, the owner or operator must sufficiently analyze any waste which he has not previously burned in his incinerator to enable him to establish steady state (normal) operating conditions (including waste and auxiliary fuel feed and air flow) and to determine the type of pollutants which might be emitted. At a minimum, the analysis must determine:

(a) Heating value of the waste;

(b) Halogen content and sulfur content in the waste; and

(c) Concentrations in the waste of lead and mercury, unless the owner or operator has written, documented data that show that the element is not present.

[Comment: As required by § 265.73, the owner or operator must place the results from each waste analysis, or the documented information, in the operating record of the facility.]